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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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8 GRANVILLE MARSHALL, M.D.,  
9 Plaintiff,

CIV-S-04-1054 DFL/KJM

10 v.  
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12 CITY OF SUSANVILLE, COUNTY OF  
13 LASSEN, BANNER COMMUNITY  
HOSPITAL, DAVE ANDERSON and  
DOES 1 through 50, inclusive,  
Defendants.  
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15 MEMORANDUM OF OPINION  
16 AND ORDER

17 Plaintiff Granville H. Marshall, M.D. brings multiple  
18 constitutional claims against the City of Susanville, Lassen  
19 County, Banner Community Hospital, and individual defendants. On  
20 July 20, 2006, the court issued a pretrial scheduling order  
21 barring amendments to the pleadings without permission of the  
22 court and a showing of good cause. On August 14, Marshall filed  
23 a second amended complaint, without his attorneys' knowledge or  
24 the court's permission. Defendants seek to dismiss or to strike  
25 the second amended complaint and request sanctions. Marshall's  
26 attorneys seek to withdraw from representation. For the reasons  
below, the court GRANTS the motions to strike, DENIES the motion  
for sanctions, and GRANTS the motion to withdraw.

I.

The court grants the motion to strike the second amended complaint. Under Federal Rules of Civil Procedure 16(f) and 37(b) (2) (C), the court may strike pleadings filed by a party contrary to the terms of a scheduling order. Marshall failed to comply with the July 20 pretrial scheduling order, neither seeking the court's permission nor showing good cause to file the amended complaint. Although Banner seeks sanctions for Marshall's unauthorized amendment, the court finds that the minimal effort required to strike Marshall's clearly improper filing does not justify the requested fees. The court, therefore, denies the motion for sanctions.

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The court grants Marshall's attorneys' motion to withdraw. Although Marshall filed an opposition to this motion on September 1, 2006, he stated at the November 1 hearing that he no longer opposes withdrawal. Moreover, the attorneys sufficiently demonstrated a breakdown in the attorney-client relationship based upon scheduling disputes and Marshall's subsequent pro per filing. If Marshall intends to retain new counsel, the court encourages him to do so promptly. If he intends to represent himself, the court urges him to study the procedural requirements and schedule imposed by the July 20 pretrial scheduling order.

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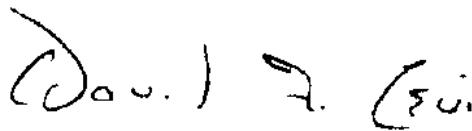
For the above stated reasons, the court GRANTS the motion to strike the second amended complaint, DENIES the motion for

1 sanctions, and GRANTS the motion to withdraw.

2 IT IS SO ORDERED.

3 Dated: 11/22/2006

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7 DAVID F. LEVI  
8 United States District Judge

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